



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/257,902	02/25/99	ZLOTKIN	S VANZ-0011

HM12/0127  
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EXAMINER

GEORGE, K

ART UNIT

PAPER NUMBER

1616

DATE MAILED:

01/27/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application N .

09/257,902

Applicant(s)

ZLOTKIN, STANLEY H.

Examiner

Konata M. George

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_ .
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_ .
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .
- 17) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: .

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### DETAILED ACTION

Claims 1-20 are pending in this application.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kovacs et al. (U.S. Patent No. 3,992,556).

Kovacs et al. ('556) teaches a supplemented food product that provides a bead-like form of iron compounds, vitamins, and minerals in a solid fat carrier (col. 2, lines 17-19, 30 and 31). The reference teaches a combination of the compound comprising ascorbic acid, zinc, vitamin A, and iodine (col. 4, lines 10-30). The reference teaches the size of the iron-containing compounds passing through a 20 mesh for coarse particles or 325 mesh for finer particles (col. 4, lines 47-58). The reference teaches the solid fat carrier (i.e. excipient) as edible oil in hydrogenated form also, mentioned are examples (col. 5, lines 54-62). The reference teaches a method of preventing iron deficiency by adding the composition to a food and administering the food to a mammal (col. 6, example 1; col. 7, lines 1-14; col. 8, lines 26-44). Finally, the reference teaches a therapeutically effective amount of the iron at 18 mg established as the Recommended Daily Allowance (col. 4, line 17).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacs et al. (U.S. Patent No. 3,992,556).

Kovacs et al. ('556) teaches a supplemented food product that provides a bead-like form of iron compounds, vitamins, and minerals in a solid fat carrier (col. 2, lines 17-19, 30 and 31). The reference teaches a combination of the compound comprising ascorbic acid, zinc, vitamin A, and iodine (col. 4, lines 10-30). The reference teaches the size of the iron-containing compounds passing through a 20 mesh for coarse particles or 325 mesh for finer particles (col. 4, lines 47-58). The reference teaches the solid fat carrier (i.e. excipient) as edible oil in hydrogenated form also, mentioned are examples (col. 5, lines 54-62). The reference teaches a method of preventing iron deficiency by adding the composition to a food and administering the food to a mammal (col. 6, example 1; col. 7, lines 1-14; col. 8, lines 26-44). The reference teaches a therapeutically effective amount of the iron at 18 mg established as the Recommended Daily Allowance (col. 4, line 17). The reference does not teach an article of manufacture comprising a packaging material with a pharmaceutical composition

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comprising a label. The reference does not teach the composition used in a single dosage form and that the packaging material is in the form of a sachet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an article of manufacturing in order to inform the patient about the composition and dosage and to provide a container for the composition.

3. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovacs et al. (U.S. Patent No. 3,992,556).

Kovacs et al. ('556) teaches the iron composition with a lipid-based excipient and vitamins and minerals of the claimed article of manufacture, judicial notice is taken that the packaging and labeling for use of a composition is old and well known. The sole difference between the claimed and prior art articles is in the printed matter in the label indicating the composition's new intended use. However, the printed matter on the label does not possess a "functional relationship" with the article of manufacture and is, accordingly, not granted any patentable weight. Thus, the claimed invention was obvious to one of ordinary skill in the art.

### ***Conclusion***

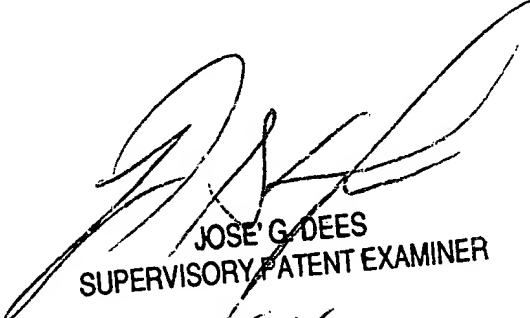
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George whose telephone number is (703) 308-4646. The examiner can normally be reached on M-F 8:30-5:00p.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose G. Dees can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

KMG  
January 21, 2000

  
JOSE G. DEES  
SUPERVISORY PATENT EXAMINER  
1616